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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,963	09/12/2003	Terry O'Halloran	PA1524.ap.US	6345
7590 MARK A. LITMAN MARK A. LITMAN & ASSOCIATES, P.A. 3209 WEST 76th STREET SUITE 205 EDINA, MN 55435				
01/28/2009				
EXAMINER				
HOEL, MATTHEW D				
ART UNIT		PAPER NUMBER		
3714				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/660,963	Applicant(s) O'HALLORAN, TERRY
Examiner Matthew D. Hoel	Art Unit 3714

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-8, 10-14, 16 and 17.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: See Continuation Sheet

/Peter DungBa Vo/
Supervisory Patent Examiner, Art Unit 3714

/M. D. H./
Examiner, Art Unit 3714

Continuation of 13. Other: See Continuation Sheet. Regarding the applicant's remarks on Page 15, the final rejection did not address Claims 9 and 15, because they were cancelled the last time the claims were amended (claims as entered 12-19-2007). Regarding claims 1, 11, 12, and 17, the outcome of Hagiwara ('907) is only the result of the single, communal result. Quoting from '907 (2:19-30): "A subordinate machine 2a includes a display control circuit 15 for controlling the CRT monitor 7a and actuating the speaker 10a in response to a command from the CPU 11, a detector 18a for sensing betted coins inserted in the slot 8a (FIG. 1), and a coin paying-out mechanism 19a for paying out coins to the coin outlet 9a (FIG. 1). The CRT monitor 7a displays the same contents (symbol rows and others) displayed on the CRT display device of the main machine. The speaker 10a outputs different sounds corresponding to the result, "win" or "lost" of the game. This augments the players' amusement." For example, the array of symbols shown on screen 7a ('907, Fig. 1) is exactly the same as the array of symbols shown on the main display 6 of '907, Fig. 1. Thus, the result or outcome (winning combination or payline), is solely based on the single, communal result. The examiner is not interpreting "outcome" as whether or not a player won, or how much a player won; such is not claimed. What Hagiwara ('907) lacked in the single, communal result, was the intervals between game results of '284. Hagiwara is an attract mode in a similar sense to the attract mode of Acres ('284) in that the single, communal result is visible to all players (main display 6, Fig. 1, 1:66-2:9), and is even called a demonstration game (2:44-50), which is certainly synonymous with an attract mode. The examiner concedes that Hagiwara requires a player to bet on the single, communal result in order to win, but the outcome (winning combination) only depends on the single, communal result. The intervals between game results not anticipated by Hagiwara with the limitation of the intervals being controlled solely by the processor, this is anticipated by Acres, et al. (U.S. patent 5,876,284 A; in Figs. 36-38, 39:61-42:33). This limitation is anticipated by '284 (item 610, Fig. 36 and 40:38-60). In this limitation, the length of the display mode is not determined by how much the player has bet. The time interval between game results of '284 applied to '907 would merely keep the attract mode with repeated spins of the reels going, allowing a player or players to bet on the spins of the reels at any time. This would have been obvious to one of ordinary skill in the art at the time the invention was made. Hagiwara ('907), the main reference teaches a demonstration or attract mode in 2:43-50 in which the reels spins repeatedly until the player makes a bet. The modification of '907 with the above-cited limitation of '284 would result in a game in which the player can bet on the spins of the demonstration or attract mode at any time without any interruption to the spins of the reels ('284 teaches game starting after 30 or 50 seconds, 2:55-61). For the reasons outlined above, the claimed invention is essentially a slot machine format for a lottery as a single, communal result taking place at fixed intervals such as once per week, etc., the outcome of which does not depend on whether an individual player wagers or not, with the player having to place a wager in order to be eligible to win. The examiner respectfully disagrees with the applicant as to the claims' condition for allowance.